IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5546 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

BAI ALKABEN. WD/O MANUBHAI SHIVRAMBHAI GARANGE (CHHARA)
Versus
STATE OF GUJARAT THRO.SECRETARY & ORS

==========

Appearance :
MR ARVIND K THAKUR for Petitioner:1
MR APURVA DAVE AGP for Respondent:1
RULE SERVED for Respondents:2-3

==========

CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 20/12/2007

ORAL JUDGMENT

1. By filing this petition, the petitioner-detenue has challenged her detention order dated 18-1-2007. By the said order, the petitioner is detained

as a "bootlegger" under P.A.S.A. Along with the order of detention, petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference about ten criminal cases pending against the petitioner. All these cases are registered under Bombay Prohibition Act. After considering the aforesaid cases as well as statement of two witnesses, the detaining authority has passed order of detention against the petitioner, which is impugned in this petition.

2. Learned advocate for the petitioner has argued number of points but he has mainly submitted that the petitioner made a representation to the Home Department, State of Gujarat, against the aforesaid order of detention. The said representation was sent by Regd.Post A.D. on 7th February, 2007. However, such representation is not still decided. In support of his contention, the learned advocate for the petitioner has tendered acknowledgment receipt of representation he sent to the competent authority, which is taken on record. He has also placed reliance on the judgment delivered by this Court (Coram:P.B.Majmudar, J.)

rendered in Special Civil Application No.2377 of 2004 on dated 12.07.2004. He submitted that the State has not explained this delay in deciding representation and, therefore, the order of detention is required to be quashed and set aside, as according to him, such representation is required to be disposed of forthwith.

3. The attention of Mr.Apurva Dave, learned AGP is drawn to the receipt tendered by the learned advocate for the petitioner. However, he is not able to explain as to why till the date the representation has not been decided by the authority.

4. However, for such reason no explanation is given by the State by filing reply, even though the point of delay in deciding representation is taken in the petition. The detaining authority has filed its reply but, naturally, the detaining authority is not in a position to explain this delay. Therefore, on this limited ground of delay in deciding representation of the petitioner, this petition is required to be allowed and it is allowed.

5. For the reasons recorded in the judgment dictated today, the petition is allowed. The impugned order of detention dated 18.01.2007 passed by the Police Commissioner, Ahmedabad City is quashed and set aside. The detenue Bai Alkaben Wd/o. Manubhai Shivrambhai Garange (Chhara) is ordered to be set at liberty forthwith if not required in connection with any other case by any other authority. Rule is made absolute accordingly. Direct service is permitted.

(M.***D.SHAH, J.)***

Amit/-